

Appl. No.: 10/613,547

Amdt. dated 01/07/2005

Reply to Office Action of January 4, 2005

### **REMARKS/ARGUMENTS**

This is in response to the Office Action dated January 4, 2005, in which the response filed on September 24, 2004 was deemed to be not fully responsive to the previous Office Action for lacking a listing of the claims under 37 CFR 1.111. The Applicant hereby provides such a listing of the claims, as required by the Office Action, and submits that the remarks that follow are substantially similar to those filed in the response of September 24, 2004.

It is again noted that an initialed copy of the PTO Form 1449 that was submitted with Applicants' Information Disclosure Statement filed November 13, 2003, and with the response of September 24, 2004, has not been returned to Applicants' representative with the Office Action. Accordingly, it is requested that an initialed copy of the Form 1449 be forwarded to the undersigned with the next communication from the PTO.

In view of the following remarks, reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as presented are earnestly solicited. Claims 1-36 are currently pending. The Applicant traverses the rejections set forth in the Office Action dated July 1, 2004 and submits that the claims define patentable subject matter over the prior art cited in that Office Action. Accordingly, notice to such effect is requested at the Examiner's earliest convenience.

### **Claim Rejections – 35 U.S.C. §103**

Claims 1-36 were rejected in the Office Action as being unpatentable over U.S. Patent No. 5,737,902 to Aylward in view of U.S. Patent No. 5,653,092 to Gorby *et al.* The Applicant respectfully traverses this rejection.

The Aylward '902 patent discloses a packaging apparatus 10 for placing pills into a series of pill receptacles 18 moved under the apparatus by a conveyor 14. The packaging apparatus includes an escapement mechanism 35, 36 positioned above at least one drop chute 45 and a vertical positioner for moving the drop chute adjacent to the pill receptacles so that pills may be sequentially placed into the pill receptacles. A first horizontal positioner 51 moves the drop chute in a horizontal direction parallel to the path of travel of the pill receptacles and at a speed independent of the speed of the pill receptacles so that the lower end of the drop chute is moved

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horizontally with respect to a pill receptacle while a pill is being placed therein. A second horizontal positioner 60 moves the drop chute in horizontal directions transverse to the path of travel.

The Gorby '092 patent discloses a filling device for food cans whereby a primary pocket turret assembly or rotating table 10, forming a portion of a vegetable packing machine, is rotated by a motor 12. The table 10 includes a plurality of openings or pockets 14. Located below each pocket 14 and rotating therewith is a series of cups 16 which are pushed through the bridge structure 18 in an independent fashion along with rotating table 10. The structure 18 departs the circular rotation of the rotating table so that the cup 16 can be transported to a can filling mechanism. A plurality of compression pistons 20 located above the rotating table 10 rotate along with the rotating table 10 in axially alignment with a corresponding pocket 14, opposing metering pistons 24 located below the rotating table 10, the compression pistons 20 and the metering pistons 24 cooperating so that the food product 26 is gently compressed to approximately the volume of the can to be filled.

Located above rotating table 10 are a series of sweepers to direct food product into the vicinity of the pockets 14, wherein a first sweeper 32 is located after the position where the food is introduced to the rotating table 10, followed by a second sweeper 34 located just past the first sweeper 32, the sweepers being stationary relative to the table, and affixed to the underlying machine structure (Col. 3, lines 57-59). As the food and table rotate, a primary or third sweeper 36 is configured with a cutout 38 so that food product 26 is left with a "high" side on the outer perimeter of the outside of the pocket 14. The fourth sweeper 39 further adjusts the top of the food 26 as it passes into the final food leveling mechanism. The final mechanism is a helical sweeper 40 having a cylinder body 42 with a series of helical grooves thereabout. Positioned in each groove is a sweeper-type device 44, wherein each sweeper blade 44 is positioned in the cylinder body 42. The sweeper blades 44 sweep across the top of the can in a direction opposite of the rotation of table 10, thereby pushing the food product toward the center of rotating table 10. Two additional sweepers 50, 52 accumulate the food product not deflected into the pockets or surplus to the pockets back toward the position where additional food is added to the machine. The result is a properly metered and measured amount of product in each of the pockets as it rotates about the table.

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In contrast, embodiments of the present invention, as claimed, are directed to a packaging device for a pill packaging apparatus, as well as associated apparatuses and methods, wherein the packaging device is adapted to cooperate with a plurality of pill receptacles defined by a web and being conveyed by a conveyor under the packaging device in a packaging direction to manipulate pills deposited in the receptacles into a laid-down position with respect to the receptacles. Such a packaging device includes a first wiper device extending across the web and non-perpendicularly to the packaging direction, wherein the first wiper device is configured to engage pills protruding from the receptacles. A second wiper device is disposed downstream of the first wiper device and extends across the web substantially perpendicularly to the packaging direction. The second wiper device is configured to engage any pills still protruding from the receptacles following engagement with the first wiper device. **Both the first and second wiper devices are configured to oscillate substantially transversely to the packaging direction so as to vibrate laterally with respect to the web.** As such, the lateral vibration of the first and second wiper devices, as the wiper devices engage any protruding pills, causes the protruding pills to be manipulated into the laid-down position in the corresponding receptacles.

The Aylward '902 patent teaches a packaging apparatus having a drop-chute configuration for placing pills into receptacles being transported along a conveyor belt in a path of travel. The Applicant thus submits that the Aylward '902 patent is directed to depositing pills in corresponding receptacles of a pill package and **does not** teach or suggest implementing **wiper devices downstream of the deposition process for manipulating any pills protruding from the receptacles into a laid-down position in those receptacles.** Moreover, the Aylward '902 patent **does not** teach or suggest **first and second wiper devices configured to oscillate substantially transversely to the packaging direction so as to vibrate laterally with respect to the web** for facilitating the pill manipulation process.

The Gorby '092 patent is directed to a food can filling device having the cans disposed in a rotating table for filling with a food product, wherein the cans are exposed to **a series of scrapers or sweepers for facilitating filling and leveling of the food product in the cans by removing any excess food product protruding from the can.** Accordingly, the Gorby '092 patent **does not** teach or suggest a packaging device for manipulating pills deposited in the receptacles into a laid-down position, as particularly claimed in the present invention. The

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Applicant further submits that manipulating a pill into a laid-down position within a pill receptacle is not analogous to the Gorby '092 process for removing an excess of a food product protruding from a food can, since the pill manipulation process does not remove any portion of the pill protruding from the receptacle. Further, the Gorby '092 patent does not teach or suggest first and second wiper devices configured to oscillate substantially transversely to the packaging direction so as to vibrate laterally with respect to the web that, when engaged with any protruding pills, causes the protruding pills to be manipulated into the laid-down position in the corresponding receptacles, as particularly claimed in the present invention. The Applicant also notes that the Gorby '092 patent does not teach or suggest that any of the scraper or sweeper devices disclosed therein are configured to vibrate laterally with respect to the packaging direction. Accordingly, the Aylward '902 and Gorby '092 patents, either separately or in combination, do not teach, suggest, or provide motivation for the embodiments of the present invention as now claimed in Claims 1-36. Thus, the Applicant submits that the present invention, as claimed, is patentable over the Aylward '902 and Gorby '029 patents and requests withdrawal of this rejection.

### Conclusion

In summary, the Aylward '902 and Gorby '092 patents do not teach, suggest, or provide motivation for the embodiments of the present invention, as claimed in Claims 1-36. Accordingly, in view of the discussed differences between the Applicant's invention and the Aylward '902 and Gorby '092 patents, it is submitted that the present invention, as defined by Claims 1-36, is patentable over the cited prior art. As such, for the reasons set forth above, Claims 1-36 are believed to be in condition for immediate allowance. Accordingly, notice to such effect is respectfully requested at the Examiner's earliest opportunity.

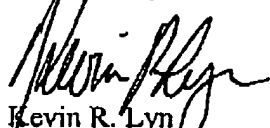
It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

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Respectfully submitted,



Kevin R. Lyn

Registration No. 42,818

**Customer No. 00826****ALSTON & BIRD LLP**

Bank of America Plaza

101 South Tryon Street, Suite 4000

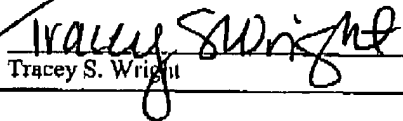
Charlotte, NC 28280-4000

Tel Raleigh Office (919) 862-2200

Fax Raleigh Office (919) 862-2260

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